

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:08cv222**

DONNIE L. GRIFFIN,

Plaintiff,

Vs.

**LACY H. THORNBURG,
UNITED STATES DISTRICT JUDGE,**

Defendant.

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ORDER

THIS MATTER is before the court on the United States' Motion to Dismiss. Plaintiff is proceeding *pro se*. In accordance with Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), plaintiff, who is proceeding *pro se*, is cautioned that the United States has, on behalf of the named defendant, has moved to dismiss his Complaint for lack of subject matter jurisdiction and for failure to state a claim. Such motions are governed, respectively, by Rules 12(b)(1) and 12(b)(6), Federal Rules of Civil Procedure, and provide for dismissal where the court lacks jurisdiction over the subject matter of the Complaint or where a claim recognized under the law has not been stated. The government argues that the Complaint is barred under the doctrine of sovereign immunity, which means that the United States has not consented to be

sued in such circumstances, and due to absolute judicial immunity, which means that a person cannot sue a judicial officer for judicial decisions.

Plaintiff is advised that under the Local Civil Rules of this court he has the right to file with the Clerk of this court a written response to the government's motion, and plaintiff has 14 days from entry of this Order to make such a filing. While a Complaint may be dismissed even where a litigant responds, plaintiff is advised that if he fails to respond to defendant's motion within the time allowed, his claim may also be summarily dismissed.

ORDER

IT IS, THEREFORE, ORDERED that plaintiff respond to defendant's Motion to Dismiss within 14 days of the filing of this Order.

Signed: May 27, 2008

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Dennis L. Howell
United States Magistrate Judge

